

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT ALVARADO, et al.,

No. C 04-5356 SBA

Plaintiffs,

ORDER

DIAMOND OAKS CONSTRUCTION CO.,
INC.,

[Docket Nos. 35, 51]

Defendant.

This matter comes before the Court on the Plaintiffs' Motion for Default Judgment ("Motion").

14 On July 11, 2005, this Court referred Plaintiffs' Motion to Magistrate Judge James for a report and
15 recommendation. On September 26, 2005, Magistrate Judge James issued her Report and
16 Recommendation re Plaintiffs' Motion [Docket No. 51]. Pursuant to Federal Rule of Civil Procedure
17 72(a), "[w]ithin 10 days after being served with a copy of the magistrate judge's order, a party may serve
18 and file objections to the order; a party may not thereafter assign as error a defect in the magistrate
19 judge's order to which objection was not timely made." Fed. R. Civ. P. 72(a). The ten-day period for
20 filing any objections has elapsed and none of the parties have filed any objections to the report.

Having considered the report, and the recommendations therein, and for good cause appearing, this Court hereby ADOPTS Magistrate Judge James' Report and Recommendation re Plaintiffs' Motion for Default Judgment.

24 || Accordingly,

25 IT IS HEREBY ORDERED THAT Magistrate Judge James' Report and Recommendation re
26 Plaintiffs' Motion for Default Judgment [Docket No. 51] is ADOPTED.

27 IT IS FURTHER ORDERED THAT Plaintiffs' Motion for Default Judgment [Docket No. 35]
28 is GRANTED IN PART AND DENIED IN PART.

1 IT IS FURTHER ORDERED THAT judgment is entered in Plaintiffs' favor in the amount of
2 \$37,609.71 and Defendant is ordered to submit to an audit by Plaintiffs under the conditions expressed
3 in the collective bargaining agreement.

4 IT IS FURTHER ORDERED THAT Plaintiffs be awarded \$3,850.00 in attorneys' fees.
5 Plaintiffs are entitled to costs pursuant to Rule 54 of the Federal Rules of Civil Procedure and are
6 directed to file a Bill of Costs in compliance with the Local Rules of this Court.

7 IT IS FURTHER ORDERED THAT Plaintiffs' request for an injunction is DENIED. Plaintiffs
8 have not demonstrated that they face a real or immediate threat of substantial or irreparable injury, nor
9 have they demonstrated that their legal remedies are inadequate.

10 IT IS SO ORDERED.

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12 Dated: 1/30/06
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12 SAUNDRA BROWN ARMSTRONG
13 United States District Judge
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